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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/699,955      | 10/30/2000  | Dennis P. Barry      | 1150/0H262          | 8257             |

7590 03/06/2002  
Darby & Darby PC  
805 Third Avenue  
New York, NY 10022

EXAMINER

HUNTER, ALVIN A

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3711

DATE MAILED: 03/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/699,955 | <b>Applicant(s)</b><br>BARRY, DENNIS P. |  |
|                              | <b>Examiner</b><br>Alvin A. Hunter   | <b>Art Unit</b><br>3711                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

1. The disclosure is objected to because of the following informalities:
  - a) The figures in the "Brief Description of the Drawings" are not listed separately,
  - b) On page 10, line 5, the word "parallelopiped" should read --parallelepiped—, and
  - c) On page 11, line 13, "locationon" should read --location on--.Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, and 6-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry (USPN 4093235) in view of Vogel (USPN 3588144) and Gill (USPN 4182516).

Barry discloses, word for word, all of the limitations claimed by the applicant except for having a parallelepiped or pyramid shaped multi-token means being the same or different colors with directional indicia on their ends. Vogel discloses having a playing piece with adjustable indicium on them (See Abstract). On some of the cubical pieces, indicia representing ranking is comprised on one face bearing the letter "Z", a second face bearing the letter "N", and a third face bearing the letter "I" (See Column 2,

lines 40 through 55, and Figure 1). Vogel also discloses that the playing pieces may be polygonal having increased sides for bearing more indicium (See Column 3, lines 54 through 73). Vogel also discloses, in another embodiment, short cylindrical pieces having directional indicial identifying which piece is adjustable by orientation. Clearly, a game piece having more than one indicia is taught (See Column 1, lines 58 through 65). Vogel also teaches a directional indication means as how to orient the game piece(s) during play (See Abstract). Furthermore, Vogel discloses that the sets of game pieces are distinguishable by color (See Column 2, lines 32 through 39). It would have been obvious to one having ordinary skill in the art at the time the invention was made, in view of Vogel, to have any polygonal shaped game piece, such as parallelepiped or pyramid shaped, with any number or type of indicia, such as a boat, car, and plane, in order to reduce the number of game pieces. It also would have been obvious, in view of Vogel, to have the game pieces of the same or different colors in order to eliminate confusion of which token is being used by which player and for aesthetics. Gill discloses a sailboat racing game having indicia on the playing pieces that indicate the direction of travel (See Abstract). It would appear that if the direction of travel is indicated that the player(s) would know that playing piece cannot travel in a certain direction, thus indicating all directional statuses of the playing piece to all players. It would have been obvious, in view of Gill, to having indicators on the playing pieces, in order to indicate to all players the directional status of the playing piece. The "GO" and "NO GO" display is still printed matter although the functional limitations are added; therefore, only the functional limitations were addressed.

***Response to Arguments***


Applicant's arguments with respect to claims 1, 3, 4, and 6-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700